



T.D #5

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Philip E. Thorpe and Sophia Ran

Serial No.: 09/998,833

Filed: November 30, 2001

For: Combined Cancer Treatment Methods
Using Antibodies to Aminophospholipids
(As Amended)

Group Art Unit: 1642

Examiner: G. Bansal

Atty. Dkt. No.: 4001.002299

COPY OF PAPERS
ORIGINALLY FILED

CERTIFICATE OF MAILING
37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with
the U.S. Postal Service as First Class Mail in an envelope
addressed to: Assistant Commissioner for Patents, Washington,
D.C. 20231, on the date below:

April 30, 2002
Date

Shelley P.M. Fussey

RESPONSE TO NOTICE OF OMITTED ITEMS
AND PETITION TO MAINTAIN FILING DATE

RECEIVED

MAY 24 2002

OFFICE OF PETITIONS

Assistant Commissioner
for Patents

Washington, D.C. 20231

Adjustment date: 05/13/2002 AKELLEY
05/13/2002 REMBRANT 00000056 09998833
01 FC:122 -130.00 DP
Repl. Ref: 05/19/2002 AKELLEY 0013445400
DAB:500786 Name/Number:09998833
FC: 704 \$130.00 CR

This paper is filed in response to the Notice of Omitted Items in a Nonprovisional Application ("the Notice") mailed from the U.S. Patent and Trademark Office ("the Office") on April 10, 2002. Applicants hereby petition to maintain the original filing date on the basis that the allegedly missing page was, in fact, submitted and received by the Office.

Although not believed to be necessary to maintain the filing date, an additional copy of page 154 of the specification is enclosed herewith. A petition fee of \$130.00 is also enclosed

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herewith, as required by 37 C.F.R. § 1.17(i). As no error on the part of the Applicants exists, Applicants respectfully request that the full amount of the petition fee be refunded.

The present application was filed via Express Mail on November 30, 2001, by the undersigned Applicants' representative. The postcard listed the specification, amongst other materials, and identified the number of pages enclosed. The postcard was returned and received by Applicants' representatives, indicating that all listed papers were received by the Office. A Filing Receipt was later mailed by the Office, which also signifies that all materials connected with the application had been received at the Office and that everything was in order.

Only after a number of months' delay was the present Notice mailed, alleging that page 154 of the specification was not received. This is believed to be *prima facie* evidence that page 154 was originally received by the Office and then mislaid.

Upon receipt of the present Notice, Applicants' undersigned representative reviewed the copies of the specification in Applicants' representatives' files. It was determined that page 154 of the specification was present in the correct chronological order within the specification.

It is the standard practice of Applicants' undersigned representative to manually count pages of an application after any automatic photocopying process and to undertake a final review of all papers before filing. Such practices were carried out when the present application was filed. Accordingly, it can only be concluded that page 154 was originally received by the Office and subsequently became detached from the application papers.

As a precaution to support the present Petition, a formal declaration by Applicants' undersigned representative is also enclosed.

In order to facilitate examination, an additional copy of page 154 is enclosed herewith. Provision of page 154, which is believed to have been lost by the Office, is in no way an indication that page 154 was not originally submitted.

Applicants' evidence of deposit includes: their representative following her standard practice, which includes checking the papers submitted; the presence of the referenced page in Applicants' representatives' duplicate files; and the earlier returned postcard and Filing Receipt, both indicating receipt of all papers.

Although the petition fee of \$130.00 required by 37 C.F.R. §1.17(i)(1) is included herewith, Applicants respectfully request that this fee be refunded in full and applied to Applicants' representatives' Deposit Account No. 50-0786/4001.002299.

Should the Office have any questions regarding this matter, a telephone call to Applicants' undersigned representative is earnestly requested.

Respectfully submitted,



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Agent for Applicants

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Date: April 30, 2002